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Attorneys for Petitioner

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

In The Matter Of:

THE COMPLAINT OF MAHAY'S
RIVERBOAT SERVICE, INC. an AK
Corporation, DBA MAHAY'S JET BOAT
ADVENTURES for Exoneration from or
Limitation of Liability,

Petitioner.

IN ADMIRALTY

Case No.

VERIFIED COMPLAINT FOR
EXONERATION FROM OR
LIMITATION OF LIABILITY

COMES NOW Mahay's Riverboat Service, Inc., DBA Mahay's Jet Boat Adventures ("Petitioner")
as owner and operator of the SUSITNA PRINCESS, in an action for exoneration from or
limitation of liability, and alleges as follows:

I.

Petitioner files this action to limit its liability pursuant to 46 App. U.S.C. §30501 – 30512
and for exoneration of liability pursuant to the Federal Rules of Civil Procedure ("FRCP"),
Supplemental Rules for Admiralty or Maritime Claims ("SAR"), Rule F. This court has
jurisdiction over the subject matter pursuant to 28 U.S.C. §1333.

II.

At present, the SUSITNA PRINCESS is located in Talkeetna, Alaska. The incident giving
rise to the potential claims for which Petitioner is requesting exoneration from or limitation of

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1 liability occurred on the Susitna River in Alaska near Chase Creek, approximately 10 miles north
2 of Talkeetna, Alaska. Therefore, venue is proper in the District of Alaska pursuant to Rule F(9)
3 and LRC 3.2(a).

4 **III.**

5 The Incident occurred on June 24, 2022 aboard the SUSITNA PRINCESS 45 minutes into
6 a two-hour voyage. The voyage began in Talkeetna, Alaska around 6:30 PM and terminated in
7 Talkeetna around 8:30 PM the same day.

8 **IV.**

9 The vessel SUSITNA PRINCESS is a 33-foot jet boat constructed by Oaks in 1990. At all
10 times material, Mahay's was the sole owner and operator of the vessel. The SUSITNA
11 PRINCESS was diligently and regularly maintained at all times material.

12 **V.**

13 On June 24, 2022, the SUSITNA PRINCESS, operated by hired captain Christopher
14 Bohnenkamp, departed Talkeetna for a two-hour private wilderness excursion with a group of
15 passengers onboard. During the excursion, the boat stopped at Chase Creek to show passengers
16 spawning salmon. After a brief safety talk, Captain Bohnenkamp turned the boat around in the
17 main channel of the Susitna River to head downstream. During the maneuver, passenger Cindy
18 Boyd fell out of her seat and was apparently injured. None of the other passengers fell from their
19 seats or incurred injury. Boyd told the captain and crew she was ok and denied their offer to return
20 to the dock and end the voyage. The voyage continued for another hour, terminating at Mahay's
21 dock around 8:30 PM.

22 **VI.**

23 Petitioner has used due diligence to make the SUSITNA PRINCESS seaworthy in all
24 respects. Petitioner is unaware of any condition that existed aboard its vessel that caused or
25 contributed to the alleged injury. Petitioner used reasonable diligence to ensure the vessel was, in
26 all aspects, reasonably fit and safe.

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1 **VII.**

2 The incident and all consequent damages occurred without any privity or knowledge of
3 Petitioner. Privity or knowledge is required under the Limitation of Vessel Owner's Liability Act,
4 46 U.S.C. §§30501-30512, to defeat Petitioner's right to exoneration from or limitation of liability.
5 Further, the Injury and all consequential damages were not caused by or contributed to any fault or
6 negligence on the part of Petitioner, entitling Petitioner to exoneration from or limitation of
7 liability.

8 **VIII.**

9 To date, no lawsuits have been filed against Petitioner or the SUSITNA PRINCESS based
10 on damage or injury arising from or related in any way to the Incident.

11 **IX.**

12 Petitioner identifies the following potential damages, as required by Rule F(2), which are
13 currently known, or which Petitioner anticipates may arise: (1) injury to Cindy Boyd, including the
14 left index figure, left hand, chest, ribs, and related damages; (2) possible injuries to other
15 passengers onboard.

16 **X.**

17 A demand has not yet been made. On August 28, 2022, Petitioner received a letter from
18 counsel for Ms. Boyd claiming Petitioner is 100% at fault for this incident. Based on information
19 and belief, the amount of the claims arising out of the incident will exceed the value of the vessel.

20 **XI.**

21 After the incident, the SUSITNA PRINCESS had a fair market value of \$60,000, as stated
22 in the contemporaneously filed Notice of Value signed by Israel Mahay. No freight was pending at
23 the time of the Incident, and the SUSITNA PRINCESS did not sustain damage during the Incident.

24 **XII.**

25 Pursuant to Supplemental Rule F(1) and Local Admiralty Rule (f)-1, Petitioner will seek
26 leave to deposit with the Court security of costs in the amount of \$1,000.

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1 **XIII.**

2 Petitioner offers security in the form of a Letter of Undertaking in the amount of \$60,000
3 as security as required by Rule F(1), equal to the value of the vessel and pending freight.

4 **XIV.**

5 Petitioner asserts its right to seek exoneration from liability for damages incurred because
6 of the Incident, or in the alternative, claims right to limit liability for damages caused by the
7 Incident to the value of the vessel. Petitioner seeks to invoke the benefits of exoneration from or
8 limitation of liability provided by 46 U.S.C. §§ 30501-30512, and in the same proceeding,
9 Petitioner desires to contest its liability and the liability of the SUSITNA PRINCESS for any loss
10 or damage arising out of the Incident.

11 **PRAYER FOR RELIEF**

12 **ACCORDINGLY**, Petitioner prays for the following relief:

13 1. Acceptance and approval of the security for costs tendered in the sum of \$1000 under
14 Rule F(1) and LAR (f)-1;

15 2. Acceptance and approval of the Letter of Undertaking in the sum of \$60,000, plus
16 accrued interest at the rate of six percent per annum under Rule F(1) as security for an amount
17 equal to the value of the vessel and pending freight;

18 3. Issuance of monition to all persons claiming damages for any and all loss, damage,
19 destruction, or injury done, occasioned, or incurred by or resulting from the Incident, citing such
20 persons to file their claims with the clerk of this Court, and to issue by mail to the attorneys for
21 Petitioner a copy thereof on or before a date to be given, all as provided by law and Rule F of the
22 Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions and the rules
23 of the Court governing these proceedings;

24 4. Issuance of public notice to all persons of such monition according to Rule F(4);
25
26

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1 6. That the Court permit Petitioner to contest its liability for all loss, damage, injury, or
2 destruction occurring from the June 24, 2022 Incident, or as a consequence thereof, and be
3 adjudged and decreed not liable, or, if such liability is found, then Petitioner shall be entitled to a
4 decree of limitation of liability to the extent and in the manner provided by law;

5 7. That a judgment be entered discharging Petitioner from all further liability for the Injury
6 and any and all damages relating to the June 24, 2022 Incident; and

7 8. That Petitioner be granted such further relief as the Court deems just and equitable
8 under the circumstances.

9
10 DATED this 23rd day of January, 2023.

11 BAUER MOYNIHAN & JOHNSON LLP

12 *s/ Donald K. McLean*

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VERIFICATION

I, Israel Mahay, affirm that:

1. I am a corporate representative of the Petitioner in the above-entitled matter that owned the SUSITNA PRINCESS at all times material.
2. I have read the Verified Complaint and believe the facts alleged to be true and accurate to the best of my knowledge, information, and belief.
3. I declare under penalty of perjury that the foregoing is true and correct pursuant to 28 U.S.C. §1746

Executed on this 1 of 23 2023, at Talkeetna, Alaska.
(location)


Israel Mahay

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